

ENVIRONMENTAL QUALITY

CHAPTER 50

SOLID WASTE MANAGEMENT

Sub-Chapter 2

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## Sub-Chapter 2

## Motor Vehicle Recycling and Disposal

17.50.201 LICENSE TO OPERATE--APPLICATION

(1)(a) Application for license to operate a motor vehicle wrecking facility shall be made on forms furnished by the department. There shall be submitted with the application a statement signed by the appropriate local government official having knowledge of local zoning ordinances certifying that the site of the proposed facility does not violate any local government zoning ordinance in effect on the date that the application is filed with the department. If the appropriate local government official refuses to certify that the proposed facility does not violate any local government ordinance and the department determines that no zoning ordinance will be violated, the department shall consider the application.

(b) All the information requested on the application form must be completed before the department will act on the application.

(c) The department may deny the application if the applicant fails to provide information requested by the department.

(2) When the completed application is received, the department is to approve the site location before a license will be issued.

(3) Before an application is approved and a license to operate is issued, the department shall inspect the facility and the facility must be in compliance with the shielding requirements of ARM 17.50.202. (History: 75-10-503, MCA; IMP, 75-10-503, MCA; NEW, EMERG, Eff. 11/4/73; AMD, Eff. 5/6/76; AMD, 1992 MAR p. 1370, Eff. 6/26/92; TRANS, from DHES, 1995 MAR p. 2253.)

17.50.202 SHIELDING OF FACILITIES (1) All junk vehicles, motor vehicle wrecking facilities, and county motor vehicle graveyards are required to be shielded from public view. Public view is any point 6 feet above the surface of the center of any public road from which the wrecking facility and junk vehicles can be seen.

(2) Shielding refers to fencing or other manmade barriers to conceal a facility from public view. It also refers to natural barriers. Any shielding barrier must conform to all local zoning, planning, building, and protective covenant provisions and any other legal restrictions that may be in effect for each wrecking facility site.

(3)(a) Fences must be constructed of sound building materials. Rough dimensional lumber or better is acceptable. Slabs are not considered rough dimensional lumber. Other types

of fencing of equivalent performance, attractiveness, and shielding qualities are also acceptable. Plastics or other materials placed over junk vehicles are not acceptable, except that a reasonably attractive car cover specifically designed to attach tightly to and cover a motor vehicle is acceptable for shielding one junk vehicle at a single location.

(b) If a fence is used, the boards may be spaced or slanted to reduce wind load. The space which may be seen from a broad-side view may not be more than  $1\frac{1}{2}$  inches wide when viewed at any angle from  $45^\circ$  to  $90^\circ$  to the fence. The interval between spaces may not be less than  $7\frac{1}{2}$  inches. Notwithstanding the spacing and interval requirements contained herein, chainlink metal fences with standard fiberglass or similar inserts are acceptable. The spacing in the fence must be no greater than  $45^\circ$  from vertical.

(c) Screening with shrubs and trees, while not subject to precise measurements, must provide a similar degree of shielding at all times of the year. Trees and shrubs can best be used in conjunction with other shielding materials to improve the appearance of the wrecking facility. A berm may also be used, provided the slopes of the berm are covered and graded smooth, with not less than 3 inches of top soil, and seeded with an adequate seeding formula.

(4) Shielding must be of sufficient height to shield junk vehicles on the premises from public view. If a facility is situated in a manner making it impractical to construct a fence or other shielding high enough to shield the facility, a series of fences or other shielding should be used. This is not intended to require that permanent buildings, utility poles, cranes, derricks, or similar structures be shielded.

(5) To preclude misunderstanding, prior approval should be obtained from the department for fences other than the 2 types specified above (i.e., metal and wood fences). Unless otherwise specifically approved by the department, no more than one type of approved shielding material may be used on any one side of the facility. Unless otherwise specifically approved by the department, shielding on any one side of the facility must be of a uniform color.

(6) It is realized that in certain situations motor vehicle wrecking facilities which existed prior to July 1, 1973, cannot be successfully shielded from certain viewpoints; for example, from a public road located at a higher elevation than a facility. In such instances, the department shall make a decision as to the degree of shielding necessary on a case-by-case basis.

(7) The shielding must be maintained in a neat and workmanlike manner and must be replaced or repaired when necessary. Damage by vandals or other causes is the risk of the operator and is not to be reason for not maintaining the

shielding.

(8) Shielding must not be used as a billboard. A maximum of 2 signs not to exceed 32 square feet each, advertising the business conducted on the premises, may be painted on or attached flush to the shielding. (History: 75-10-503, MCA; IMP, 75-10-503, MCA; NEW, EMERG, Eff. 11/4/73; AMD, Eff. 5/6/76; AMD, 1992 MAR p. 1370, Eff. 6/26/92; TRANS, from DHES, 1995 MAR p. 2253.)

Rules 17.50.203 and 17.50.204 reserved

17.50.205 RENEWAL OF LICENSE (1) For licensed motor vehicle wrecking facilities, renewal application must be made on forms furnished by the department.

(2) A motor vehicle wrecking facility must be in compliance with, or be operating under a compliance plan that will assure compliance with, 75-10-501 through 75-10-542, MCA, and these rules prior to receiving a renewed license. (History: 75-10-503, MCA; IMP, 75-10-503, MCA; NEW, EMERG, Eff. 11/4/73; AMD, Eff. 5/6/76; AMD, 1992 MAR p. 1370, Eff. 6/26/92; TRANS, from DHES, 1995 MAR p. 2253.)

17.50.206 DENIAL OF APPLICATION OR CANCELLATION OF LICENSE

(1) When the department determines to deny an application for a license, to deny the renewal of a license, or to revoke a license pursuant to 75-10-514, MCA, it shall notify the applicant or licensee of its intended action.

(2) The department shall give the applicant or licensee the opportunity to submit an acceptable compliance plan setting specific dates for compliance which shall be submitted within 10 days after receipt of the notification.

(3) Upon the failure of the applicant or licensee to submit an acceptable compliance plan within the prescribed time, the department may deny the application, deny the renewal, or revoke the license. The decision by the department to deny the application, deny the renewal, or revoke the license may be appealed pursuant to 75-10-515, MCA. (History: 75-10-503, MCA; IMP, 75-10-503, 75-10-515, MCA; NEW, EMERG, Eff. 11/4/73; AMD, Eff. 5/6/76; AMD, 1992 MAR p. 1370, Eff. 6/26/92; TRANS, from DHES, 1995 MAR p. 2253.)

17.50.207 INSPECTIONS (1) The facility and required operational records must be made available for inspection to an authorized representative of the department or county at all reasonable business hours. The required operational records must also be made available for inspection by an authorized representative of the department of justice at all reasonable business hours.

(2) Each county, through its designated representative, shall inspect each licensed motor vehicle wrecking facility within its boundaries at least annually.

(3) Upon notification of a licensee's intent to discontinue business, the county shall inspect the licensee's facility. (History: 75-10-503, 75-10-521, MCA; IMP, 75-10-503, 75-10-521, MCA; NEW, EMERG, Eff. 11/4/73; AMD, Eff. 5/6/76; AMD, 1992 MAR p. 1370, Eff. 6/26/92; TRANS, from DHES, 1995 MAR p. 2253.)

Rules 17.50.208 and 17.50.209 reserved

17.50.210 MOTOR VEHICLE GRAVEYARDS (1) Each motor vehicle graveyard is required to be licensed, but no fee is required. The graveyard shall be operated and maintained in accordance with the requirements of this subchapter which are applicable to motor vehicle wrecking facilities.

(2) Every motor vehicle graveyard shall maintain records on each vehicle placed in the graveyard.

(a) Each motor vehicle graveyard shall submit its records on each junk vehicle to the department on a quarterly basis. A form entitled "Motor Vehicle Graveyard Log Sheet" will be furnished by the department to record this information.

(b) A properly completed certificate of ownership, sheriff's certificate of sale, notarized bill of sale from the former owner or person selling the vehicle, release of ownership or interest in the motor vehicle, or sheriff's release must be obtained for each junk vehicle placed in a county motor vehicle graveyard. This documentation must be submitted to the department as soon as the junk vehicles are removed from the motor vehicle graveyard.

(3) If the county contracts for the establishment, maintenance, or operation of its free motor vehicle graveyard, or for the collection of junk vehicles, a copy of the contract must be furnished to the department. Prior department approval of the contract is required. The contract shall include a provision requiring the contractor to operate the free motor vehicle graveyard in strict compliance with all applicable laws and with the provisions of this subchapter. Any failure to operate the free motor vehicle graveyard in accordance with the requirements of the law or with the requirements of this subchapter will invalidate the contract.

(4) No salvage may be permitted from vehicles which have been released to a county junk vehicle program.

(5) The county shall publish and adequately disseminate in the county the hours of operation and other pertinent information regarding the procedures for the collection and acceptance of junk vehicles for each motor vehicle graveyard within its boundaries. Each motor vehicle graveyard must be supervised when open to the public.

(6) The department may require periodic reports from motor vehicle graveyards. Department representatives shall have physical access to each motor vehicle graveyard, its records, and operational procedure during reasonable hours of operation.

(7) Junk vehicles must be placed in an orderly manner within the motor vehicle graveyard site. Stacking the junk vehicles is permissible, provided they remain shielded from public view.

(8) If there are significant changes from the operation, establishment, location, or collection methods specified in the approved county plan, the county shall prepare and submit within

6 months of such change a new plan for approval by the department. (History: 75-10-503, MCA; IMP, 75-10-503, 75-10-521, MCA; NEW, EMERG, Eff. 11/4/73; AMD, Eff. 5/6/76; AMD, 1992 MAR p. 1370, Eff. 6/26/92; TRANS, from DHES, 1995 MAR p. 2253.)

17.50.211 REIMBURSEMENT OF HIRED ABANDONED VEHICLE REMOVAL CHARGES (1) The sheriff of each county and the chief of police of each city shall designate one or more persons within their agencies as authorized representatives for the purpose of submission of claims for reimbursement of hired removal costs.

(2) Upon hiring a hired vehicle remover, the authorized law enforcement agency representative may submit to the department a request for the reimbursement provided for in 75-10-503, MCA, or may authorize the hired vehicle remover to submit directly to the department a claim for payment to be made directly to the hired vehicle remover. (History: 75-10-503, MCA; IMP, 75-10-532, MCA; NEW, 1999 MAR p. 2452, Eff. 10/22/99.)



## 17.50.212 DISTRICT DESIGNATION AND CLAIM SUBMITTAL

(1) The state is divided into 3 districts:

(a) District 1 consists of Big Horn; Carter; Custer; Daniels; Dawson; Fallon; Garfield; McCone; Phillips; Powder River; Prairie; Richland; Roosevelt; Rosebud; Sheridan; Treasure; Yellowstone; Valley; and Wibaux counties;

(b) District 2 consists of Blaine; Broadwater; Cascade; Chouteau; Carbon; Fergus; Gallatin; Golden Valley; Hill; Judith Basin; Liberty; Meagher; Musselshell; Park; Petroleum; Stillwater; Sweet Grass; and Wheatland counties; and

(c) District 3 consists of Beaverhead; Deer Lodge; Flathead; Glacier; Granite; Jefferson; Lake; Lewis and Clark; Lincoln; Madison; Mineral; Missoula; Pondera; Powell; Ravalli; Sanders; Silver Bow; Teton; and Toole counties.

(2) To assure prompt payment of claims, hired vehicle removers shall submit claims to the department on the following schedule:

(a) Hired vehicle removers located within District 1 shall submit claims in January, April, July, and October;

(b) Hired vehicle removers located within District 2 shall submit claims in February, May, August, and November; and

(c) Hired vehicle removers located within District 3 shall submit claims in March, June, September, and December.

(History: 75-10-503, MCA; IMP, 75-10-532, MCA; NEW, 1999 MAR p. 2452, Eff. 10/22/99.)

17.50.213 PAYMENT REQUESTS (1) Payment requests shall consist of:

(a) standard billing document; and

(b) a completed authorization to remove the vehicle and request for reimbursement for each vehicle for which a claim for payment is made. The authorization and request must be on a form provided by the department.

(2) The authorization to tow and request for reimbursement form must be signed by a representative designated pursuant to ARM 17.50.211. If the form is not signed, the form must be considered incomplete and payment must be denied. The claim may be resubmitted.

(3) The department shall pay each claim at the flat rate of \$70.00 per vehicle removed.

(4) When a vehicle is sold pursuant to 61-12-404, MCA, the sheriff or the police department must notify the department and identify the vehicle sold.

(5) Each hired vehicle remover is encouraged to report to the department all abandoned vehicles hauled, even if no claim for payment is submitted.

(6) Proceeds from the sale of a vehicle at a sheriff's sale pursuant to 61-12-407(2), MCA, must be used to reimburse the department for the hired removal charge paid by the department.

(7) If an abandoned vehicle is reclaimed by the owner and the hired vehicle remover has received payment from the department for the hauling charge, the hired vehicle remover shall reimburse the department the paid removal charge.

(8) If a hired vehicle remover fails to report to the department that an owner has reclaimed an abandoned vehicle or fails to make a reimbursement required by (7), the department may declare the hired vehicle remover to be ineligible for future reimbursements for removal costs. (History: 75-10-503, MCA; IMP, 75-10-532, MCA; NEW, 1999 MAR p. 2452, Eff. 10/22/99.)

17.50.214 FUNDING ALLOCATION (1) Funding available to the law enforcement agencies within a county for a fiscal year must be allocated based on 85% of the funding appropriated by the legislature for vehicle removal reimbursement during that fiscal year divided by the number of registered vehicles in the state and multiplied by the number of registered vehicles in that county. Funding from the county allocation is available to the sheriff's office and city police departments located within the boundaries of the county. The department shall deny a claim if the county's funding allocation for the fiscal year in which the removal occurred is located has been exhausted. The claim may not be resubmitted except pursuant to (2).

(2) Fifteen percent of the legislatively appropriated funding for each fiscal year must be used as a contingency fund to be allocated on an "as needed" basis for extraordinary vehicle removal efforts. Whenever there is a need for additional funding to support higher than allocated funding levels, the law enforcement agency may request supplemental funding from the contingency fund.

(3) If the law enforcement agencies within a county do not use that county's full allocation, the unused portion of the allocation may be reapportioned as part of the contingency fund established in (2). (History: 75-10-503, MCA; IMP, 75-10-532, MCA; NEW, 1999 MAR p. 2452, Eff. 10/22/99.)

17.50.215 DISPOSAL OF JUNK VEHICLES THROUGH STATE DISPOSAL PROGRAM (1) Except as provided in the rules pertaining to the sales of junk vehicles, the county shall notify the department for disposition of any junk vehicles located in a motor vehicle graveyard within the boundaries of the county, regardless of the number of vehicles involved.

(2) Any junk vehicle designated by the county as eligible for inclusion in a county sale of junk vehicles must be placed in an orderly manner in a separate defined area of the graveyard.

(3) A motor vehicle wrecking facility may request the department to contract for removal of junk vehicles from its premises if there is an accumulation of at least 200 vehicles at the facility. If the department can handle such requests, the motor vehicle wrecking facility is to surrender to the department all records maintained on the vehicle. (History: 75-10-503, MCA; IMP, 75-10-503, MCA; NEW, EMERG, Eff. 11/4/73; AMD, Eff. 5/6/76; AMD, 1992 MAR p. 1370, Eff. 6/26/92; TRANS, from DHES, 1995 MAR p. 2253; AMD, 2004 MAR p. 2382, Eff. 10/8/04.)

17.50.216 ITEMIZED ACCOUNTING BUDGET PROCEDURES--COUNTY JUNK VEHICLE PROGRAMS (1) An itemized accounting shall be submitted to the department for each past fiscal year before an approval will be granted for the next fiscal year's budget.

(2) Itemized accountings shall be submitted on forms provided by the department.

(3) County junk vehicle budgets for each fiscal year must be spent or encumbered (purchase order or signed contract) by June 30. Any funds not encumbered by June 30 must be returned to the state.

(4) Any proposed changes in the budget during a fiscal year must be submitted to the department for approval, prior to expenditure for the proposed change.

(5) In addition to the accounting required by (1) and (2), an itemized accounting of revenues realized by the county from the sales of junk vehicles must be submitted for each past fiscal year on a form provided by the department. This additional accounting must be submitted before an approval will be granted for the next fiscal year's budget. (History: 75-10-503, MCA; IMP, 75-10-503, MCA; NEW, EMERG, Eff. 11/4/73; AMD, Eff. 5/6/76; AMD, 1992 MAR p. 1370, Eff. 6/26/92; TRANS, from DHES, 1995 MAR p. 2253.)

17.50.217 AUTHORIZED COUNTIES MAY SELL JUNK VEHICLES

(1) A county, with written authorization from the department, may sell junk vehicles from the motor vehicle graveyard to licensed motor vehicle wrecking facilities. This requirement of written authorization applies to motor vehicle graveyards operated by a contractor in addition to motor vehicle graveyards operated by the county. (History: 75-10-503, MCA; IMP, 75-10-503, 75-10-521, MCA; NEW, 1992 MAR p. 1370, Eff. 6/26/92; TRANS, from DHES, 1995 MAR p. 2253.)

17.50.218 APPROVAL OF COUNTY JUNK VEHICLE SALES

(1) A county must receive department approval prior to conducting junk vehicle sales.

(2) A county wishing to obtain approval to conduct such sales must submit a plan to the department detailing how the vehicle sales will be noticed, administered, and conducted.

(3) Plans that are submitted which are inconsistent with any of the applicable rules of the department relating to junk vehicles will not be approved.

(4) Upon approval by the department, the county may conduct sales in accordance with the procedures specified in the approved plan. Once approval is granted to the county, it will remain in effect until revoked by the department or until the county requests termination.

(5) If the county desires to make changes in its procedures for sales of junk vehicles, the county must submit an updated plan to the department for approval prior to implementing such changes in its procedures.

(6) If a county fails to comply with the requirements of this subchapter, the department may revoke the approval of the county junk vehicle sale plan. (History: 75-10-503, MCA; IMP, 75-10-503, 75-10-521, MCA; NEW, 1992 MAR p. 1370, Eff. 6/26/92; TRANS, from DHES, 1995 MAR p. 2253.)

17.50.219 CONDUCT OF COUNTY JUNK VEHICLE SALES (1) Only those junk vehicles which are accompanied by a properly completed certificate of title, sheriff's certificate of sale, or sheriff's release may be sold.

(2) Sales shall be conducted on a competitive bidding basis.

(3) Junk vehicles may be sold only to licensed motor vehicle wrecking facilities. All bidders must provide proof of a valid motor vehicle wrecking facility license prior to the sale.

(4) Junk vehicles must be sold as complete units. Portions or component parts of junk vehicles may not be sold.

(5) A properly completed title, sheriff's certificate of sale, or sheriff's release must be provided by the county to the purchaser at the time the purchaser takes possession of the vehicle. In addition, the county shall provide to the purchaser a sales receipt and a signed release of interest statement from the county junk vehicle program.

(6) The county shall issue sales receipts and release of interest statements on forms provided by the department.

(7) Payment must be made by the purchaser on the day of the sale in the form of a business check, certified check, guaranteed bank draft or money order.

(8) The purchaser of a vehicle must remove the vehicle from the motor vehicle graveyard within 3 working days of the date of the sale. (History: 75-10-503, MCA; IMP, 75-10-503, 75-10-521, MCA; NEW, 1992 MAR p. 1370, Eff. 6/26/92; TRANS, from DHES, 1995 MAR p. 2253.)

17.50.220 COUNTY TO REPORT JUNK VEHICLE SALES TO THE DEPARTMENT (1) Within 30 days of a county junk vehicle sale, the county shall submit to the department a report of the junk vehicle sale, together with payment equal to the salvage value of each vehicle sold. Salvage value must be calculated in accordance with 75-10-534, MCA. Reports must be submitted on forms provided by the department and shall at a minimum include a description of each vehicle sold and the actual selling price of each vehicle. (History: 75-10-503, MCA; IMP, 75-10-503, 75-10-521, MCA; NEW, 1992 MAR p. 1370, Eff. 6/26/92; TRANS, from DHES, 1995 MAR p. 2253.)

17.50.221 SALE PROCEEDS TO BE DEPOSITED INTO THE JUNK VEHICLE PROGRAM ACCOUNT (1) Proceeds from county junk vehicle sales must be deposited as follows:

(a) The salvage value of each vehicle sold must be sent to the department for deposit with the state treasurer and placement into the junk vehicle account established pursuant to 75-10-532, MCA.

(b) The sale proceeds in excess of the salvage values of the vehicles sold may be retained by the county for use in the county's junk vehicle program, in addition to the approved junk vehicle collection and graveyard budget of the county. If the county retains the excess proceeds, it shall deposit the excess proceeds in the county's junk vehicle program account. If the county does not retain the excess proceeds, it shall remit the excess proceeds to the department within 30 days of the date of the sale. (History: 75-10-503, MCA; IMP, 75-10-503, 75-10-521, 75-10-532, 75-10-534, MCA; NEW, 1992 MAR p. 1370, Eff. 6/26/92; TRANS, from DHES, 1995 MAR p. 2253.)

17.50.222 A VEHICLE OWNER MAY REQUEST A VEHICLE NOT BE SOLD (1) The owner or possessor of a vehicle released to the county junk vehicle program may request that a vehicle be disposed of only through crushing and recycling and that the vehicle not be sold. Junk vehicle release forms must include language notifying persons releasing vehicles of this right.

(2) If the owner or possessor of a vehicle released to the county junk vehicle program requests that the vehicle be disposed of only through crushing and recycling and that the vehicle not be sold, the county may not sell the junk vehicle. (History: 75-10-503, MCA; IMP, 75-10-503, 75-10-521, MCA; NEW, 1992 MAR p. 1370, Eff. 6/26/92; TRANS, from DHES, 1995 MAR p. 2253.)

17.50.223 REQUIREMENTS FOR PURCHASES FROM COUNTY GRAVEYARD

(1) Before any vehicle purchased pursuant to these rules may be removed from the motor vehicle graveyard, the purchaser shall provide a signed affidavit to the appropriate county personnel which states that:

(a) The purchaser maintains and is currently covered by the appropriate liability insurance required by law;

(b) The purchaser is familiar with the motor vehicle equipment requirements of Montana law as they pertain to the safe transport of disabled vehicles, as enforced by the Montana highway patrol, and intends to fully comply with such requirements;

(c) The purchaser is familiar with the department's requirements relating to the proper shielding of a junk vehicle, is in current compliance with such requirements, and intends to fully comply with such requirements.

(2) Any person who, at the time of the sale, is not in current compliance with the shielding requirements found in these regulations may not be permitted to purchase a junk vehicle pursuant to these rules. (History: 75-10-503, MCA; IMP, 75-10-503, 75-10-521, MCA; NEW, 1992 MAR p. 1370, Eff. 6/26/92; TRANS, from DHES, 1995 MAR p. 2253.)

Sub-Chapter 3 reserved



